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Our ref: 424598
Your ref: EN010116



BY EMAIL ONLY

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Dear Sir/Madam

NSIP Reference Name / Code: EN010116 North Lincolnshire Green Energy Park.

Thank you for your consultation on the above. Please see Natural England's response to the Examiners Questions raised in the Report on the Implications for European Sites (RIES) below.

Q2.1.1 Can Natural England confirm that all relevant European sites and or European site features that could be affected by the project have been identified by the Applicant?

Natural England advise that all relevant European sites have been identified in the Report to Inform Habitats Regulations Assessment (HRA) (dated March 2023). We also advise that the correct features of these sites have been listed in Table 4 of the Applicant's Report to Inform HRA.

Q2.5.1 Can NE confirm that it is satisfied with the Applicant's approach to use air quality modelling results for the Humber Estuary SPA and SAC in respect of the Humber Estuary Ramsar?

We advise this is an acceptable approach as the underlying habitat types are the same as for Humber Estuary SPA and SAC, and therefore use of the same critical loads or critical levels is appropriate.

Q2.5.7 Can NE comment on the acceptability of the ROC modelling parameters as a basis for assessment and identification of LSE from operational emissions to air, given that these parameters are not proposed to be secured in the DCO?

Natural England agree that the use of these parameters to undertake the HRA is suitable as the modelling. The DCO does secure the ERF technology, the use of which has been used to inform the modelling.

We note that the operating parameters (such as operating hours) are not proposed to be secured in the DCO. However, an environmental permit will be required for the development which will also require a HRA to be undertaken and will be able to set these conditions. We are satisfied that the modelling has been undertaken using the best available information to demonstrate no AEOL. Previously, when only the information on the worst-case emissions scenario was provided, there wasn't sufficient evidence to conclude a scenario existed where there would be no AEOL, and relying on this being demonstrated at a later date for the permit would have been inappropriate. The HRA submitted for this DCO should also be considered in the environmental permit HRA as they are for the same project.

Q2.5.10 Can NE comment on the use of the revised standard for short term NOx emissions and whether it considers this to be appropriate as a standard to measure air quality impacts?

Natural England have based our decision on the annual NOx emission period, which provides a more accurate for consideration of the potential for long term impacts.

Q2.5.12 Can NE confirm if it is content with the Applicant's revised screening conclusions in [AS-016] in respect of operational emissions to air from the Proposed Development alone and in-combination? If not, please explain for which pollutants and qualifying features there are outstanding concerns.

For European sites Natural England are satisfied that the correct screening conclusions have been reached for the operational emissions to air both alone and in combination following the revised ROC results.

2.1.1 Q. Following review of [AS-016], can NE either (i) confirm whether it is content that there is no impact pathway and as such the potential for LSE does not need to be considered or, if not, (ii) confirm the qualifying features for which it considers this potential impact pathway to be relevant. If this includes qualifying features of the Humber Estuary SPA, can NE explain why it considers this potential impact pathway to also be relevant to the SPA, noting the distance between it and the Proposed Development

Following the review of [AS-016] NE agree that with the movement of the access road to a distance greater than 200m from Humber Estuary SAC and Ramsar traffic impacts from the proposed development can be screened out of further assessment.

2.1.2 Q. Following review of [AS-016], can NE either (i) confirm whether it is content that there is no impact pathway and as such the potential for LSE does not need to be considered or, if not, (ii) confirm the qualifying features for which it considers this potential impact pathway to be relevant. If this includes qualifying features of the Humber Estuary SPA, can NE explain why it considers this potential impact pathway to also be relevant to the SPA, noting the distance between it and the Proposed Development?

Following the review of [AS-016] NE agree that with the movement of the access road to >200m from Humber Estuary SAC and Ramsar, traffic impacts from the proposed development can be screened out of further assessment.

2.1.3 Q. Does NE consider that LSE has been identified for the correct qualifying features for this impact pathway?

Natural England advise that the correct qualifying features have been identified for the dust impact pathway.

2.1.4 Q. Following review of [AS-016], can NE confirm that it is content that there is no impact pathway and as such the potential for LSE does not need to be considered?

Following the review of [AS-016] Natural England is content that a conclusion of no LSE can be determined for impacts due to bored piling, as evidence is provided in sections 4.5.3.2 to 4.5.3.5 of reasons to rule out impacts from this pathway. However, Natural England also notes that the current assessment does not consider the impact pathway of percussive piling on lamprey, further advice is provided on this point below.

Q. If NE considers that this impact pathway should be assessed at appropriate assessment stage, can it advise what additional information it requires as part of the assessment and clarify whether comments about mitigation in (Q2.5.1.6 in [REP6-041]) apply to lamprey qualifying features?

To clarify, Natural England's advice on the impacts of percussive piling primarily relate to the impacts to designated birds which are highly impacted by sudden loud bangs which arise from percussive or impact piling. However, there may also be impacts to lamprey due to the more significant vibrations interrupting the migration route. The proposed mitigation of soft start (proposed as a possibility in section 5.3.1.4 of the HRA) may be suitable for lamprey as this will give them

opportunity to move away from the noise source before percussive piling begins, however this will need to be included for assessment within the HRA along with the predicted noise and vibration levels to determine suitability.

2.1.5 Q. Does NE agree with the Applicant regarding impacts on migrating sea and river lamprey from vessel movements? Is it content a LSE can be screened out?

Natural England agree with the applicant that LSE can be screened out for impacts on migrating sea and river lamprey based on the vessel movements remaining within existing permitted baseline levels.

2.1.7 Q. Following review of can NE confirm that it is content that there is no impact pathway and as such the potential for LSE does not need to be considered, other than for mallard as part of the assemblage feature?

The survey results information provided by the applicant, which has now been incorporated into the HRA, demonstrates that there is not >1% of the population of other designated bird features present using the land which will be lost due to the development. Natural England do recommend that survey results are included at the Appropriate Assessment stage of the HRA as they form the basis of 'further assessment', however based on the results provided we would not expect a different outcome in the assessment of loss of functionally linked land, or disturbance during construction and operation.

Q. With this in mind, can the Applicant and NE comment on whether a LSE should be screened in for this potential impact pathway?

As stated above, we would recommend that survey results are included at the Appropriate Assessment stage of the HRA, however we would not expect a change in the outcome of the HRA due to this change.

2.1.8 Q. Further to the Applicant's additional survey information, can NE confirm whether it considers there to be a LSE in respect of loss of FLL, and if so, for which qualifying interest features/criterion of the Humber Estuary SPA and Ramsar site?

As stated above we would recommend that survey results are included at the Appropriate Assessment stage of the HRA. However, based on the bird survey results it is demonstrated that there will not be a direct loss of land which is used by a significant number of birds associated with the designated sites. We advise therefore that our outstanding concerns relate to the potential for disturbance due to noise impacts on adjacent functionally linked land, this is considered further in response to question 3.1.4 Q.

2.1.9 Q. Following review of the additional information on noise levels, does NE consider there to be a LSE in respect of noise/ vibration/ light disturbance to birds using FLL during construction and operation, and if so, for which additional qualifying interest features/criterion of the Humber Estuary SPA and Ramsar site?

As stated previously, Natural England recommend that survey results are taken to Appropriate Assessment. However, based on the information provided, it is the impacts on the mallard feature which require mitigation due to the significant numbers found on the River Trent and the adjacent banks, which has been identified in the HRA.

The additional information submitted by the applicant demonstrates that with the addition of the acoustic barriers, the noise levels on the birds within the boundary of Humber Estuary Ramsar, and on land functionally linked to Humber Estuary SPA (the River Trent and associated banks) will be within the existing background levels and therefore provided this mitigation is secured the impact has been addressed. However, this is for construction noise including bored piling, further information is required for the impacts which may arise from percussive or impact piling. Our further advice on this is outlined in response to question 3.1.4 Q.

The impacts due to light pollution are addressed thorough the incorporation of the appropriate lighting measures, which are secured in the DCO.

2.1.10 Q. Can NE confirm, following the Applicant's responses [REP4- 021][REP4-028][AS-016], whether it considers a LSE should be screened in for recreational disturbance? If LSE cannot be excluded, can NE confirm for which qualifying interest features/ criterion of the Humber Estuary SPA and Ramsar site would be affected?

Following the applicant's response, we advise it is possible to rule out LSE due to the existing raised embankment barrier which will prevent significant effects.

3.1.2 Q. Following review of [AS-016], can NE confirm whether it agrees with the Applicant's conclusion of no AEol from operational air quality emissions in combination with Keadby 2 and 3?

Following the review of [AS-016], for the European designated sites identified, Natural England agrees with the conclusion of no adverse effect on integrity from operational air quality emissions in combination with Keadby 2 and 3.

3.1.3 Q. Following review of [AS-016], does NE consider that AEol can be excluded? If not, can NE advise what further information it considers is required from the Applicant?

Following the review of [AS-016] a 200m screening distance for impacts from construction dust has been implemented. Therefore, Natural England concur with the conclusion of no AEol for impacts on designated features due to construction dust with the implementation of the CEMP as mitigation.

3.1.4 Q. Does NE agree with the Applicant's conclusion of no AEol, irrespective of whether the timing of construction activities can be secured?

Based on the information which has been provided in the review of [AS-016] to demonstrate the noise levels for construction activity including bored piling, we agree with the applicant's conclusion of no AEol, with the addition of mitigation in the form of acoustic barriers to reduce noise impacts. We also welcome the implementation of the COMP as further mitigation, which will be overseen by an Ecological Clerk of Works. The appropriate lighting measures have been secured within the requirements of the DCO to prevent visual impacts. Therefore, we would advise that timing of construction activities would not be required to be secured for the use of bored piling, however the use of the acoustic barriers should be secured in the DCO.

However, for percussive piling we have outstanding concerns due to the high potential for impacts due to sudden loud bangs which are more disturbing for birds than a continuous noise. The HRA will need to outline the circumstances where impact or percussive piling will be required, as well as the noise levels this activity will generate, and then include an assessment of proposed mitigation. We note the Code of Construction Practice has been updated (dated April 2023) and does include some information on this point (sections 4.1.1.7 to 4.1.1.9). These measures should be assessed for suitability in the HRA.

3.1.5 Q. The ExA's questions in ID 3.1.4 are also relevant to this impact pathway and the Applicant and NE are requested to respond on that basis.

The survey results which have now been provided by the applicant demonstrate that the development site is not regularly used by >1% of the species associated with the Humber Estuary SPA and therefore is not considered functionally linked. However, the adjacent River Trent section should be considered as Functionally Linked Land for the Humber Estuary SPA, as well as being part of the Ramsar designation, due to the high number of mallards which may be subject to disturbance effects from noise and visual disturbance. Therefore, our advice stated above in response to 3.1.4 Q. is also applicable to this question, including our concerns on the outstanding percussive piling impacts.

3.1.6 Q. *Can the Applicant and NE comment on whether measures to improve SSSI units would be viewed as mitigation or compensation and provide reasoning for the response?*

Based on the revised modelling it is possible to determine no AEOI without additional mitigation for this European site.

Q3.4.2 *Aside from the matters raised in [REP6-041] and summarised in Table 3.1 of this RIES, does NE have any outstanding concerns about mitigation measures and how these are proposed to be secured? If so, please provide further details.*

We have no additional comments to make on mitigation, further to those points we have already raised on percussive/impact piling.

Annex Q.1.1. Following review of the ROC Report to Inform HRA [AS016], NE is requested to confirm whether there are any site/features/impact pathways shaded orange and denoted with a '?' for which it does not agree with the Applicant's conclusion.

As stated previously, for the impact pathways which required bird surveys to determine potential for significant effects Natural England would advise the survey results should be incorporated into the Appropriate Assessment, rather than screening out the impact pathway at LSE. However, based on the information provided Natural England does agree with the outcome of these issues, and is not of the opinion that further mitigation will be required, other than for the previously raised potential for impacts due to percussive/ impact piling.

Annex Q.1.2. NE is requested to confirm whether there are any site/features/impact pathways shaded light green and denoted with a '?' for which it does not agree with the Applicant's conclusion.

Natural England have no comments to make for this question.

Yours faithfully

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